IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 11007 of 2000

Between:

Bentho Oriya Samaj,

Represented by its Secretary, Prahalad Apto,

S/o Late Dondasi Apto,
Buragam, Pathepatnam Mandal,

Srikakaulam District.

..... PETITIONER

AND

1. The Government of A.P.,

Represented by its Secretary, Social Welfare Department,
Secretariat, Hyderabad.

2 The Collector,
Srikakulam, Srikakulam District.

3 The Divisional Officer,
Palakonda, Srikakulam District.

4 The Revenue Divisional Officer,
Tekkali, Srikakulam District.

5 The Mandal Revenue Officer,
Pathapatnam, Srikakulam District.

6 The Mandal Revenue Officer,
Melliapatti, Srikakulam District.

7 The Mandal Revenue Officer,
Tekkali, Srikakulam District.

8 The Project Officer, I.T.D.A.,
Seethampeta, Srikakulam, Srikakulam District.

9 The Registrar,

Sri Acharya N.G.ranga Agricultural University,
Rajendranagar, Hyderabad.
10 V.Narsimha Rao Dora, S/o Late. Appanna Dora,
R/o Vandava, Veena Gattam Mandal, Srikakulam District.

(R-10 is impleaded as per Court Order, dated.13/12/2000

in W.P.M.P. No. 28345/2000)

11. Akhila Bharata Adima Vikasa Parishat,

represented by its Convenor, M. Upendra Kumar,

s/o. Butchi Babu, 32 years, r/o. Seethampeta village and Mandal,

Srikakulam District.

12. S. Gavaraiah, s/o. Muthaiah, 29 years,

r/o. Deenabandhupuram village, Meliaputti Mandal,

Srikakulam District.

13. The Member-Convenor,

District Educational Officer, D.S.C. Srikakulam,

Srikakulam District.

14. The Director of School Education,

A.P. Hyderabad, Secretariat, Hyderabad.

15. The Government of Andhra Pradesh,

Education Department, Secretariat, Hyderabad,

Represented by its Secretary.

(R-11 & 12 and 13 to 15 are impleaded as per Court

Orders in W.P.M.P.Nos.19335 of 2000 and 33984 of 2000

both dated 16-12-2004 respectively)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order, or Direction, more particularly one in the nature of Writ of MANDAMUS directing the Respondents to issue Bentho Oriya Community Certificate to the eligible Bentho Oriya Candidates by implementing the Govt. Memo No.22427/CV.2/93, DT.3/5/99, after declaring the action of the Respondents in not issuing the Certificates within prescribed time as illegal and contrary to Rule5 of the A.P. (S.C., S.T. & B.Cs.) Regulation of issue of Community Certificates Rules 1997, in the interest of Justice.

Counsel for the Petitioner: MR.B.SUDHAKAR REDDY &

NEERAJA REDDY

Counsel for the Respondents1 to 7: G.P. FOR SOCIAL WELFARE

Counsel for the Respondent No.10: Kota Bhaskara Rao

Counsel for the Respondents 11 & 12: B. Lingaiah Choudary

Counsel for the Respondents 13 to 15: G.P. for School Education

The Court made the following:

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ORDER:

One Prahalad Apto, who claims to be the Secretary of Bentho Oriya Samaj, has filed this writ petition seeking implementation of the Government Memo, dated 03-05-1999 and a declaration that the action of the respondents in not issuing 'Bentho Oriya' community certificates to the applicants for such certificates within the prescribed time, is illegal and contrary to Rule 5 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes & Backward Classes) Regulation of Issue of Community Certificates Rules 1997 (for brevity "the Rules").

Petitioner claims to be an association registered under the Andhra Pradesh Cooperative Societies Act having as its object the upliftment of Bentho Oriya community persons and for fighting for their common cause and all its members are claimed to be persons belonging to the Bentho Oriya community. In the writ petition, it is asserted that Bentho Oriya people are Tribals who have migrated into the State from the Orissa State before independence, that the community is entitled to benefits as Scheduled Tribes in view of its listing at Sl.No.17 in the list of Scheduled Tribes in the Presidential Order.

The grievance of the petitioner is that despite applications made by its members for issuance of Bentho Oriya certificates, no expeditious action is taken in particular within the time frame set out in Rule 5 of the Rules.

The second respondent-District Collector, Srikakulam, has filed a counter-affidavit chronicling the travails of the certifying agencies in respect of issue of Bentho Oriya certificates. It is stated in the counter affidavit that initially Bentho Oriya community was not independently treated as a Scheduled Tribe, but only along with the 'Kotia' Tribe. However, by the amendment to the Presidential Notification in 1976, 'Bentho Oriya' is listed as a separate caste at Sl.No.17 along with 'Kotia' and some other castes. The counter-affidavit also asserts that in Orissa State some of the applicants' relations are treated as O.C. community while in Andhra Pradesh State, the 'Voddi' caste is treated as a Backward Caste community. Some of the surnames, enumerated in the counter-affidavit, are not determinative *per se* of whether persons having these surnames belong to the 'Bentho Oriya' community (S.T.) or to other O.C. communities and that therefore the identification and ascertainment of whether a particular person belongs to 'Bentho Oriya' community is difficult and time

consuming. In these circumstances, in 1999 the State Government issued a Memo No.22427/CV.2/93, dated 03-05-1995 enumerating certain guidelines for identification of persons belonging to the 'Bentho Oriya' caste for the purpose of enabling issuance of caste certificates. As implementation of these guidelines did not remedy the situation and issuance of certificates expeditiously was a still problem, the State Government was addressed to examine the matter and issue necessary clarifications.

The Government is stated to have deputed a team of officers for enquiry and no clarification has yet been issued by the State Government, is the stand of the District Collector, Srikakulam. The petitioner has not given any particulars of any members of its association having made any application which was not disposed of or disposed of after a long delay. The petitioner is urging a general perceived grievance of the community.

The second respondent's counter put fourths an equally vague defence as to why the officers could not issue certificates expeditiously.

Having regard to the migratory status of persons belonging to the 'Bentho Oriya' community and the absence of adequate records with the official respondents, the problems expressed by the respondents should be considered as genuine, for the inability to process the applications with expedition and despatch.

In the circumstances, the writ petition is disposed of directing the respondents to consider and dispose of the application of persons for issuance of Bentho Oriya certificates, as expeditiously as possible. No costs.

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GODA RAGHURAM, J

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16th December, 2004

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Government of A.P.,

Social Welfare Department,
Secretariat, Hyderabad.
2 The Collector, Srikakulam, Srikakulam District.
3 The Divisional Officer, Palakonda, Srikakulam District.
4 The Revenue Divisional Officer, Tekkali, Srikakulam District.
5 The Mandal Revenue Officer, Pathapatnam, Srikakulam District.
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8 The Project Officer, I.T.D.A.,
Seethampeta, Srikakulam, Srikakulam District.
9 The Registrar,
Sri Acharya N.G.ranga Agricultural University,
Rajendranagar, Hyderabad.
10. Sri Prahalad Apto, Secretary, Bentho Oriya Samaj,

Buragam, Pathepatnam Mandal, Srikakaulam District.

11. Mr.M. Upendra Kumar, the Convenor,

Akhila Bharata Adima Vikasa Parishat,

Seethampeta village and Mandal, Srikakulam District.

12. The Member-Convenor,

District Educational Officer, D.S.C. Srikakulam,

Srikakulam District.

13. The Director of School Education,

A.P. Hyderabad, Secretariat, Hyderabad.

15. The Secretary, Education Department,

Government of Andhra Pradesh, Secretariat, Hyderabad,

16. Two CCs to G.P. for Social Welfare and School for Education,

High Court buildings, Hyderabad (OUT).

12. Two CD copies.